

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
MIDDLE DIVISION**

LAVENTA HARRIS,)	
)	
Plaintiff,)	
v.)	CIVIL ACTION NO. 3:08-cv-00246-WC
)	
JAY JONES, SHERIFF OF)	
LEE COUNTY SHERIFF'S)	
DEPARTMENT, in his official and)	
individual capacity and DEPUTY BILL)	
MCGUIRE, of the Lee County)	
Sheriff's Department, in his)	
official and individual capacity,)	
)	
Defendant.)	

MOTION TO DISMISS AMENDED COMPLAINT

COME NOW Jay Jones, Sheriff of Lee County, Alabama, in his official and individual capacity, and Bill McGuire, Deputy Sheriff of Lee County, Alabama, in his official and individual capacity, the Defendants in the above-styled case, and move this Honorable Court to dismiss with prejudice the Plaintiff's Amended Complaint pursuant to Fed. R. Civ. P. 12(b)(6) based on the following grounds:

1. All claims against Sheriff Jones and Deputy Sheriff McGuire in their official capacities are due to be dismissed because they are barred by the Eleventh Amendment to the United States Constitution. Furthermore, in their official capacities, Sheriff Jones and Deputy Sheriff McGuire are not "persons" for purposes of 42 U.S.C. § 1983.

2. All claims against Sheriff Jones and Deputy Sheriff McGuire in their individual capacities are due to be dismissed because the Plaintiff's Complaint fails to meet the heightened pleading requirement, and the Defendants are entitled to qualified immunity.

3. Sheriff Jones and Deputy Sheriff McGuire are entitled to absolute immunity from

all claimed violations of Alabama state law.

Wherefore, these premises considered, the Defendants respectfully request that this Court dismiss with prejudice the Plaintiff's Amended Complaint.

Respectfully submitted this the 23rd day of May, 2008.

s/Jamie K. Hill
JAMIE K. HILL, Bar No. HIL060
DARYL L. MASTERS, Bar No. MAS018
Attorneys for Defendants
WEBB & ELEY, P.C.
7475 Halcyon Pointe Drive (36117)
Post Office Box 240909
Montgomery, Alabama 36124
Telephone (334) 262-1850
Fax (334) 262-1889
Email: jhill@webbeley.com

CERTIFICATE OF SERVICE

I hereby certify that on this the **23rd day of May**, 2008, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: **Kathryn Mae Dickey, Esq.**

s/Jamie K. Hill
OF COUNSEL